



Commonwealth of Massachusetts State Ethics Commission

One Ashburton Place, Room 619, Boston, MA, 02108
phone: 617-727-0060, fax: 617-723-5851



SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 489

IN THE MATTER OF WILLIAM F. CASS

DISPOSITION AGREEMENT

This Disposition Agreement ("Agreement") is entered into between the State Ethics Commission ("Commission") and William F. Cass ("Rep. Cass") pursuant to §5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, §4(j).

On June 22, 1993, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into allegations that Rep. Cass had violated the conflict of interest law, G.L. c. 268A. The Commission has concluded its inquiry and, on January 25, 1994, voted to find reasonable cause to believe that Rep. Cass violated G.L. c. 268A, §3.

The Commission and Rep. Cass now agree to the following facts and conclusions of law:

1. Rep. Cass has served in the state legislature from January 1991 to the present. During that time, he has served on the Health Care Committee (1991 to the present; vice-chair in 1993); the Personnel Administration Committee (1991 to the present); and the Joint Committee on Insurance (six months in 1992).
2. Rep. Cass has sponsored three bills affecting the insurance industry.
3. In addition, Rep. Cass, as a member of various legislative committees, has participated in many hearings on bills of interest to the insurance industry. Such participation has included voting on whether such bills should be reported out of committee. Rep. Cass also voted on such bills if they reached the House floor.
4. During the period relevant here, F. William Sawyer ("Sawyer") was the senior John Hancock Mutual Life Insurance Company, Inc. ("Hancock") lobbyist responsible for Massachusetts legislation. At all relevant times, Sawyer was a registered legislative agent (for Hancock) in Massachusetts. Hancock, a Massachusetts corporation, is the nation's sixth largest life insurer doing business in all 50 states. It offers an array of life, health and investment products. As a Massachusetts domiciled life insurer, Hancock's activities are more comprehensively regulated by Massachusetts than by any other state.
5. At all relevant times, Rep. Cass knew that Sawyer was a Massachusetts registered lobbyist for Hancock.
6. Lobbyists are employed to promote, oppose or influence legislation.
7. One way in which some lobbyists further their legislative goals is to develop or maintain goodwill and personal relationships with legislators to ensure effective access to them. Some lobbyists entertain legislators through meals, drinks, golf and sporting events in order to develop the desired goodwill and personal relationships.
8. Between March 10, 1993, and March 14, 1993, Rep. Cass stayed at the Plantation Resort at Amelia Island, Florida, where he had registered to attend an educational conference sponsored by the Conference of Insurance Legislators. Rep. Cass stayed at the Plantation Resort with several other legislators and a number of Massachusetts lobbyists. On March 11, 1993, the first day of the conference, Cass played golf at the Amelia

Plantation course. He played with a foursome consisting of himself, Sawyer, and two others. He shared a cart with Sawyer for the 18 holes. Sawyer paid for the golf. The value of the golf was \$80.^{1/} Rep. Cass did not attend any conference events that day.

On March 12, 1993, Rep. Cass played golf at the Valley Course at Sawgrass, a golf course located at Ponte Verde, Florida. Rep. Cass thought that a certain Massachusetts lobbyist other than Sawyer paid for the golf. Sawyer's records, however, show that Sawyer paid for this golf. The cost of the golf was \$104 per person. Rep. Cass did not attend any conference sessions that day either.

On Saturday, March 13, 1993, Rep. Cass attended some conference events. He returned to Boston on Sunday, March 14th.

9. Section 3(b) of G.L. c. 268A prohibits a state employee from directly or indirectly receiving anything of substantial value for or because of any official act or act within his official responsibility performed or to be performed by him.

10. Massachusetts legislators are state employees.

11. Anything worth \$50 or more is of substantial value for §3 purposes.^{2/}

12. By accepting \$80 in entertainment from Sawyer on March 11, 1993, while Rep. Cass was in a position to take official actions which could benefit Sawyer and/or his employer, Hancock, Rep. Cass accepted an item of substantial value for or because of official acts or acts within his official responsibility performed or to be performed. In doing so he violated §3(b).^{3/}

13. By accepting \$104 in golf entertainment under the belief it was from a certain Massachusetts lobbyist, while Rep. Cass was in the position to take official actions which could benefit that lobbyist and/or his employer, Rep. Cass accepted an item of substantial value for or because of official acts or acts within his official responsibility performed or to be performed. In doing so he violated §3(b).

14. The Commission is aware of no evidence that the gratuities referenced above were provided to Rep. Cass with the intent to influence any specific act by him as a legislator or any particular act within his official responsibility. The Commission is also aware of no evidence the Rep. Cass took any official action concerning any proposed legislation which would affect any of the registered Massachusetts lobbyists in return for the gratuities. However, even though the gratuities were only intended to foster official goodwill and access, they were still impermissible.^{4/}

15. Rep. Cass cooperated with the Commission's investigation.

In view of the foregoing violations of G.L. c. 268A by Rep. Cass, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Rep. Cass:

(1) that Rep. Cass pay to the Commission the sum of five hundred and fifty dollars (\$550.00)^{5/} and;

(2) that Rep. Cass waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in any related administrative or judicial proceedings to which the Commission is or may be a party.

Date: May 12, 1994

^{1/} This figure represents the fee for eighteen holes and Rep. Cass' share of a cart.

^{2/} See *Commonwealth v. Famigletti*, 4 Mass. App. Ct. 584, 587 (1976); *EC-COI-93-14*.

^{3/} For §3 purposes, it is unnecessary to prove that the gratuities given were generated by some specific identifiable act performed or to be performed. As the Commission explained in *Advisory No. 8*, issued May 14, 1985, prohibiting private parties from giving free tickets worth \$50 or more to public employees who regulate them,

Even in the absence of any specifically identifiable matter that was, is or soon will be pending before the official, §3 may apply. Thus, where there is no prior social or business relationship between the giver and the recipient, and the recipient is a public official who is in a position to use [his] authority in a manner which could affect the giver, an inference can be drawn that the giver was seeking the goodwill of the official because of a perception by the giver that the public official's influence could benefit the giver. In such a case, the gratuity is given for his yet unidentifiable "acts to be performed."

Specifically, §3 applies to generalized goodwill-engendering entertainment of legislators by private parties, even where no specific legislation is discussed. *In re Flaherty*, 1991 SEC 498 issued December 10, 1990 (majority leader violates §3 by accepting six Celtics tickets from billboard company's lobbyists). *In re Massachusetts Candy and Tobacco Distributors, Inc.*, 1992 SEC 609 (company representing distributors violates §3 by providing a free day's outing [a barbecue lunch, golf or tennis, a cocktail hour and a clam bake dinner], worth over \$100 per person, to over 50 legislators, their staffers and family members, with the intent of enhancing the distributors' image with the Legislature and where the legislators were in a position to benefit the distributors).

Section 3 applies to meals and golf, including those occasions motivated by business reasons, for example, the so-called "business lunch". *In re U.S. Trust*, 1988 SEC 356. Finally, §3 applies to entertainment gratuities of \$50 or more even in connection with educational conferences. *In re Stone & Webster*, 1991 SEC 522, and *In re State Street Bank*, 1992 SEC 582.

On the present facts, §3 applies to entertainment of Rep. Cass by lobbyists where the intent was generally to create goodwill and the opportunity for access, even though specific legislation was not discussed.

^{4/} As discussed above in footnote 3, §3 of G.L. c. 268A is violated even where there is no evidence of an understanding that the gratuity is being given in exchange for a specific act performed or to be performed. Indeed, any such *quid pro quo* understanding would raise extremely serious concerns under the bribe section of the conflict of interest law, G.L. c. 268A, §2. Section 2 is not applicable in this case, however, as there was no such *quid pro quo* between the lobbyists and Rep. Cass.

^{5/} This amount is approximately three times the value of the prohibited \$184 in gratuities received by Rep. Cass, representing both a disgorgement of the gratuity and a civil sanction.